

Sec. 2. Section (BB), Article 20.04, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as added, is amended by adding<sup>43</sup> Subsection (4) to read as follows:

“(4) There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease, or rental of and the use, storage, or other consumption in this State of newspapers whether or not the newspaper is sold or distributed by individual copy or subscription.”

Sec. 3. Article 20.04, Title 122A, Taxation—General, Revised Civil Statutes of Texas, 1925, as amended, is amended by adding<sup>44</sup> Section (FF) to read as follows:

“(FF) Magazines. There are exempted from the taxes imposed by this Chapter the receipts from the sale, lease, or rental of and the use, storage, or other consumption in this State of subscriptions to magazines entered as second class mail and sold for a semiannual or longer period of time. Other sales of magazines are taxable.”

Sec. 4. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed by the House on March 28, 1977, by a non-record vote; passed by the Senate on April 6, 1977, by a viva-voce vote.

Approved April 25, 1977.

Effective Aug. 29, 1977, 90 days after date of adjournment.

## BOILERS—REGULATION AND INSPECTION

### CHAPTER 82

#### H. B. No. 760

An Act relating to the regulation and inspection of boilers; amending Chapter 436, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 5221c, Vernon's Texas Civil Statutes); and declaring an emergency.

*Be it enacted by the Legislature of the State of Texas:*

Section 1. Chapter 436, Acts of the 45th Legislature, Regular Session, 1937, as amended (Article 5221c, Vernon's Texas Civil Statutes), is amended<sup>45</sup> to read as follows:

“Sec. 1. The following terms used in this Act mean:

“(1) ‘Act’ or ‘The Act’—The Boiler Inspection Law.

“(2) ‘Alteration’—A change in a boiler that substantially alters the original design.

“(3) ‘Approved’—Approved by the Commissioner.

“(4) ‘ASME Code’—The American Society of Mechanical Engineers Boiler and Pressure Vessel Code with addenda Code cases, and interpretations adopted by the Council of the Society.

43. V.A.T.S. Tax.—Gen. art. 20.04, § (BB), subsec. (4).

44. V.A.T.S. Tax.—Gen. art. 20.04, § (FF).

45. Vernon's Ann.Civ.St. art. 5221c.

“(5) ‘Authorized Inspector’—Any Inspector of boilers holding a commission issued by the Commissioner pursuant to Section 10 of this Act.

“(6) ‘Board’—The Board of Boiler Rules.

“(7) ‘Boiler’—Any heating boiler, nuclear boiler, power boiler, or unfired steam boiler.

“(A) ‘Power Boiler’—A boiler in which steam is generated at a pressure in excess of 15 psi (103 kPa) or a High-Temperature Water Boiler.

“(B) ‘High-Temperature Water Boiler’—A water boiler intended for operation at pressures in excess of 160 psi (1,103 kPa) and/or temperatures in excess of 250 degrees F. (121 degrees C.).

“(C) ‘Electric Boiler’—A boiler in which the source of heat is electricity.

“(D) ‘Unfired Steam Boiler’—A steam generating system that includes:

“(i) Vessels known as evaporators or heat exchangers.

“(ii) Vessels in which steam is generated by the use of heat resulting from operation of a processing system containing a number of pressure vessels such as used in the manufacture of chemical and petroleum products.

“(iii) Waste Heat Boilers.

“(E) ‘Miniature Boiler’—Any power boiler which does not exceed the following limits:

“(i) Sixteen-inch (406 mm) inside diameter of shell.

“(ii) Twenty-square-foot (1.86 square meter) heating surface (not applicable to electric boiler).

“(iii) Five-cubic-foot gross (0.14 cubic meter) volume exclusive of casing and installation.

“(iv) One hundred psi (689 kPa) maximum allowable working pressure.

“(F) ‘Nuclear Boiler’—A nuclear power plant system which produces and controls an output of thermal energy from nuclear fuel and those associated systems essential to the functions of the power system. The components of the system include such items as pressure vessels, piping systems, pumps, valves, and storage tanks.

“(G) ‘Heating Boiler’—Any steam heating boiler, hot water heating boiler, hot water supply boiler, or lined potable water heater, which is directly fired with oil, gas, solar energy, electricity, coal, or other solid or liquid fuels.

“(i) ‘Steam Heating Boiler’—A boiler for operation at pressures not exceeding 15 psi.

“(ii) ‘Hot Water Heating Boiler’—A boiler for operation at a pressure not exceeding 160 psi and/or temperatures not exceeding 250 degrees F. at or near the boiler outlet.

“(iii) ‘Hot Water Supply Boiler’—A boiler for operation at pressures not exceeding 160 psi and/or temperatures not exceeding 250 degrees F. at or near the boiler outlet when any of the following limitations is exceeded:

“(a) Heat input of 200,000 Btu/hour.

“(b) Water temperatures of 210 degrees F.

“(c) Nominal water-containing capacity of 120 gallons (454.21.).

“(iv) ‘Potable Water Heater’—A boiler for operation at pressures not exceeding 160 psi and water temperatures not in excess of 210 degrees F. when any of the following limitations is exceeded:

“(a) Heat input of 200,000 Btu/hour.

"(b) Nominal water-containing capacity of 120 gallons.

"(8) 'Chief Inspector'—The Inspector appointed in accordance with Section 8 of this Act.

"(9) 'Code'—ASME Code.

"(10) 'Commissioner'—The Commissioner of the Department of Labor and Standards of the State of Texas.

"(11) 'Condemned Boiler'—A boiler inspected and declared unfit for further service by the Chief Inspector, the Deputy Inspector, or the Commissioner.

"(12) 'Certificate Inspection'—An inspection, the report of which is used by the Chief Inspector to decide whether or not a Certificate of Operation may be issued.

"(13) 'Certificate of Operation'—A Certificate issued by the Commissioner permitting the operation of a boiler.

"(14) 'Deputy Inspector'—An Inspector appointed by the Commissioner.

"(15) 'Existing Installation'—Any boiler constructed, installed, placed in operation, or contracted for before June 3, 1937.

"(16) 'External Inspection'—An inspection of the exterior of the boiler and its appurtenances made when a boiler is in operation, where possible.

"(17) 'Electric Boiler'—See Boiler, 'Electric'.

"(18) 'Heating Boiler'—See Boiler, 'Heating'.

"(19) 'High-Temperature Water Boiler'—See Boiler, 'High Temperature Water'.

"(20) 'Hot Water Heating Boiler'—See Boiler, 'Hot Water Heating'.

"(21) 'Hot Water Supply Boiler'—See Boiler, 'Hot Water Supply'.

"(22) 'Inspection Agency'—An authorized inspection agency providing inspection services in accordance with Section 10 of this Act.

"(23) 'Inspector'—Chief Inspector, Deputy Inspector, or Authorized Inspector.

"(24) 'Internal Inspection'—A complete and thorough inspection of the interior of the boiler where construction will permit.

"(25) 'Lined Potable Water Heater'—See Boiler, 'Potable Water Heater'.

"(26) 'Major Repair'—A repair upon which the strength of the boiler will depend.

"(27) 'Miniature Boiler'—See Boiler, 'Miniature'.

"(28) 'National Board'—The National Board of Boiler and Pressure Vessel Inspectors.

"(29) 'National Board Inspection Code'—The Manual for Boiler and Pressure Vessel Inspectors published by the National Board.

"(30) 'New Installations'—A boiler constructed, installed, or placed in operation after June 3, 1937.

"(31) 'Nuclear Boiler'—See Boiler, 'Nuclear'.

"(32) 'Non-Standard Boiler'—A boiler that does not qualify as a standard boiler.

"(33) 'Owner or User'—Any person, firm, or corporation owning or operating boilers within the State.

"(34) 'Portable Boiler'—A boiler which is primarily intended for use in a temporary location.

"(35) 'Power Boiler'—See Boiler, 'Power'.

"(36) 'Preliminary Order'—A written order issued by the Chief Inspector or any Deputy Inspector to require repairs or alterations to ren-

der a boiler safe for use or to require that operation of the boiler be discontinued.

"(37) 'Reinstalled Boiler'—A boiler removed from its original setting and reinstalled at the same location or at a new location without change of ownership.

"(38) 'Repair'—The work necessary to return a boiler to a safe and satisfactory operating condition without changing the original design.

"(39) 'Rules and Regulations'—The Code of Rules and Regulations promulgated and enforced by the Commissioner in accordance with Section 6 of this Act.

"(40) 'Safety Appliance'—Safety devices such as safety valves or safety relief valves (within the jurisdictional limits of the boiler as prescribed by the ASME Code and the Rules and Regulations) provided for the purpose of diminishing the danger of accidents.

"(41) 'Secondhand Boiler'—A boiler of which both the location and ownership have changed.

"(42) 'Special Inspection'—An inspection by the Chief Inspector or Deputy Inspector other than those in Sections 4, 4a, and 5 in this Act.

"(43) 'Standard Boiler'—A boiler which bears a Texas stamp, the ASME stamp, or the stamp of any jurisdiction which has adopted a standard of construction equivalent to that required by the Commissioner.

"(44) 'Steam-Heating Boiler'—See Boiler, 'Steam Heating'.

"(45) 'Unfired Steam Boiler'—See Boiler, 'Unfired'.

"Sec. 2. Unless otherwise specifically exempted in this Act, all boilers operated within the State shall be registered with the Department of Labor and Standards. In addition, such boilers shall not be operated unless they have satisfactorily passed a Certificate Inspection and have qualified for a Certificate of Operation. The Certificate of Operation shall remain in full force and effect until expiration unless cancelled for cause by the Commissioner and shall be placed under glass in a conspicuous place on or near the boiler for which it is issued. No prosecution shall be maintained where the issuance of or the renewal of such Certificate of Operation shall have been requested and shall remain unacted upon. However, if the operation of such boiler without a Certificate of Operation shall constitute a serious menace to the life and safety of any person or persons in or about the premises, the Commissioner, as hereinafter provided for, shall apply to the District Court in a suit brought by either the Attorney General of the State, or any District or County Attorney, in the county in which such boiler is located, for an injunction restraining the operation of said boiler until the unsafe condition restraining its use shall be corrected and a Certificate of Operation issued. In all such cases it shall not be necessary for the attorney bringing the suit to verify the pleadings or for the State to execute a bond as a condition precedent to the issuing of any injunction or restraining order hereunder. The affidavit of the Commissioner that no application for or no Certificate of Operation exists for such boiler, and the affidavit of the Chief Inspector or any Deputy Inspector that its operation constitutes a menace to the life and safety of any person or persons in or about the premises, shall be sufficient proof to warrant the immediate granting of a temporary restraining order.

"Sec. 2a. There is established within the Department of Labor and Standards a Board of Boiler Rules, consisting of nine members appointed by the Commissioner. Except for the initial appointees, members hold office for terms of six years expiring on January 31 of odd-numbered

years. In making the initial appointments, the Commissioner shall designate three for terms expiring in 1979, three for terms expiring in 1981, and three for terms expiring in 1983.

"The Commissioner may remove any member of the Board for inefficiency or neglect of duty in office. Upon the resignation, death, suspension, or incapacity of any member, the Commissioner shall fill the vacancy for the remainder of the vacated term with an individual representative of the same interests with which the predecessor was identified.

"The nine members shall have experience with boilers, and at least four, when available, shall be registered professional engineers licensed in the State of Texas. Three members shall be representatives of owners or users of boilers, one shall be representative of boiler manufacturers or installers, three shall be representatives of companies insuring boilers in this State, one shall be a mechanical engineer on the faculty of a recognized engineering college within the State, and one shall be a representative of a labor union.

"The Chief Inspector shall serve as chairman, and the Commissioner shall be an ex officio member. At the call of the chairman, the Board shall meet at least twice each year at a place designated by the Board. No decision of the Board shall be effective unless supported by the vote of at least five members.

"The Board shall act in an advisory capacity to the Commissioner in formulating definitions, rules and regulations for the safe construction, installation, inspection, operating limits, alteration, and repair of boilers and their appurtenances.

"The Board members shall serve without salary, but are entitled to reimbursement for actual expenses incurred in the performance of their duties as board members.

"Sec. 3. The following are exempt from the provisions of this Act:

"(1) Boilers owned or operated by the Federal Government;

"(2) Pressure Vessels and unfired steam boilers, except:

"a. Steam drums of unfired steam boilers.

"b. Waste heat boilers.

"Sec. 3a. The following shall be exempt from the requirements of Sections 4, 5, and 11 of this Act:

"1. Heating Boilers used for heating in buildings occupied solely for residence purposes with accommodations not to exceed four (4) families.

"Sec. 4. The Commissioner shall cause boilers subject to the provisions of this Act to be inspected internally and externally (except as provided for in Sections 4 and 4a) as follows:

"(1) Power boilers shall receive a certificate inspection annually and shall also be externally inspected annually while under pressure if possible.

"(2) Steam heating boilers and hot water heating boilers shall receive a certificate inspection biennially.

"(3) Hot water supply boilers and lined potable water heaters shall receive a certificate inspection triennially.

"(4) Portable steam boilers shall be inspected externally each time it is moved to a new location, provided that an internal inspection shall be made of each such boiler at least once each twelve (12) months.

"(5) Nuclear boilers shall be inspected and reported in such form and with such appropriate information as the Commissioner shall designate.

"If such boilers referred to herein are found, upon inspection, to be in a safe condition for operation, a Certificate of Operation shall be issued by

the Commissioner for its operation for a period not longer than the interval required for certificate inspections. If any inspection authorized hereunder shall show the inspected boiler to be in an unsafe or dangerous condition, the Chief Inspector or any Deputy Inspector shall issue a preliminary order requiring such repairs and alterations to be made to such boiler as may be necessary to render it safe for use, and may also order the use of such boiler discontinued until such repairs and alterations are made or such dangerous and unsafe conditions are remedied. Unless such preliminary order be complied with by the owner or user, a hearing before the Commissioner shall be allowed, upon written request, at which the owner or user, making the request, shall have opportunity to appear and show cause why the preliminary order should not be complied with. If it shall thereafter appear to the Commissioner that such boiler is unsafe and that the requirements contained in said preliminary order should be complied with, or that other things should be done to make said boiler safe, the Commissioner may order or confirm the withholding of the Certificate of Operation for said boiler and may make such requirements as may be deemed proper for the repair or alteration of said boiler or the correction of such dangerous and unsafe conditions. The Chief Inspector may issue a temporary Certificate of Operation for a period not to exceed thirty (30) days, pending the completion of replacements or repairs. Nothing in this Section shall be construed to limit the authority of the Commissioner as set forth in Section 6 of this Act. Any boiler which cannot be rendered safe for use shall be condemned and the use of such boiler shall be prohibited.

"Sec. 4a. Upon the approval of the Commissioner and the inspection agency having jurisdiction, the interval between internal inspections may be extended to a period not to exceed twenty-four (24) months for power boilers and forty-eight (48) months for waste heat boilers and for other unfired steam boilers using heat resulting from the operation of a process system, the interval may be extended to the next scheduled down time, but not to exceed 60 months provided: (1) continuous water treatment under competent and experienced supervision has been in effect since the last internal inspection for the purpose of controlling and limiting corrosion and deposits; (2) accurate and complete records are available showing that since the last internal inspection samples of boiler water have been taken or monitored at regular intervals not greater than twenty-four (24) hours of operation and that the water condition in the boiler is satisfactorily controlled; (3) accurate and complete records are available showing the dates such boiler has been out of service and the reasons therefor since the last internal inspection, and such records shall include the nature of all repairs to the boiler, the reasons why such repairs were made; and (4) the last internal and current external inspection of the boiler indicates the inspection period may be safely extended. When such an extended period between internal inspections has been approved by the Commissioner and the inspection agency having jurisdiction, as outlined in this Section, a new Certificate of Operation shall be issued for that extended period of operation.

"Sec. 4b. Intervals of inspection for Nuclear Boilers shall be as established by the Commissioner and the owner.

"Sec. 5. Every insurance company authorized to insure and inspect boilers in this State shall, within thirty (30) days after a certificate inspection file a report with the Commissioner stating the condition of the boiler. The report shall also include the location of the boiler, date inspected, and the name of the inspector.

"Any boiler inspected by an authorized inspector shall be exempt from other inspections and inspection fees under the provisions of this Act; provided nothing in this Section shall prevent the Commissioner from authorizing the inspection of any boiler at any reasonable time when, in the opinion of the Commissioner, such boiler may be in an unsafe condition. The Commissioner shall contact the insurance company carrying insurance on the boiler and request the authorized inspector to participate with the Chief Inspector or Deputy Inspector to jointly inspect the boiler, within twenty (20) days. No additional charge shall be made for this inspection.

"The Commissioner is authorized to issue a Certificate of Operation to the owner or user of all boilers subject to inspection under this Act. The owner or user shall remit to the Texas Department of Labor and Standards the sum of Five Dollars (\$5) for each Certificate of Operation to be issued. This fee is included in the internal and external inspection fee authorized in Section 11 of this Act.

"Every insurance company shall notify the Commissioner in writing of the cancellation or expiration of every policy of insurance issued by it with reference to boilers in this State, within twenty (20) days after the expiration or cancellation of said policy, giving the cause or reason for such cancellation or expiration. Such notice of cancellation or expiration shall show the date of the policy and the date when the cancellation or expiration has or will become effective.

"Sec. 6. The Commissioner is hereby authorized and empowered to promulgate and enforce a code of rules and regulations in keeping with standard usage, for the construction, inspection, installation, use, maintenance, repair, alteration, and operation of boilers. The Commissioner may adopt rules and regulations to provide inspection procedures for use of nondestructive examination equipment to comply with the inspection requirements specified in Section 4 of this Act. The Commissioner is empowered to provide special inspection service to owner-users and manufacturers including surveys required for certification to construct, assemble or repair boilers or pressure vessels. Provided that the Commissioner or any employee of the Department, shall not have authority to prescribe the make, brand or kind of boilers to buy or purchase.

"The Commissioner may exchange information and experience data with other authorities having boiler inspection divisions or departments in assembling data for the promulgation of rules and regulations authorized under the provisions of this Act.

"Prior to the adoption, amendment, or repeal of any rules, the Commissioner shall give at least 30 days' notice of the intended action. Notice of the proposed rule shall be filed with the secretary of state and published by the secretary of state in the Texas Register. The notice must include:

"(1) a brief explanation of the proposed rule;

"(2) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;

"(3) a statement of the statutory or other authority under which the rule is proposed to be promulgated;

"(4) a request for comments on the proposed rule from any interested person; and

"(5) any other statement required by law.

"Each notice of a proposed rule becomes effective as legal notice when published in the Texas Register. The notice shall be mailed to all persons who have made timely written requests of the Commissioner for advance

notice of the rulemaking proceedings. However, failure to mail the notice does not invalidate any actions taken or rules adopted.

"Prior to the adoption of any rule, the Commissioner shall afford all interested persons reasonable opportunity to submit data, views, or arguments, orally or in writing. In the case of substantive rules, opportunity for public hearing must be granted if requested by at least 25 persons or by any association having at least 25 members. The Commissioner shall consider fully all written and oral submissions concerning the proposed rule. On adoption of a rule, the Commissioner if requested to do so by an interested person either prior to adoption or within 30 days after adoption, shall issue a concise statement of the principal reasons for and against its adoption, incorporating in the statement its reasons for overruling the considerations urged against its adoption.

"If the Commissioner finds that an imminent peril to the public health, safety, or welfare requires adoption of a rule on fewer than 30 days' notice and states in writing his reasons for that finding, he may proceed without prior notice or hearing or on any abbreviated notice and hearing that he finds practicable to adopt an emergency rule. The rule may be effective for a period of not longer than 120 days renewable once for a period not exceeding 60 days, but the adoption of an identical rule under the provisions of this section is not precluded. An emergency rule adopted under these provisions and the Commissioner's written reasons for the adoption, shall be filed in the office of the secretary of state for publication in the Texas Register.

"No rule adopted is valid unless adopted in substantial compliance with this section and the provisions of the Administrative Procedure and Texas Register Act.

"Sec. 7. When any person is aggrieved by any fundamental rule, regulation or order promulgated by the Commissioner, that person shall notify the Commissioner of such grievance by formal notice in writing, whereupon the Commissioner shall give consideration of such grievance and may modify, change, alter or amend same by motion upon failure or refusal of the Commissioner, within ten (10) days, to change, alter or modify such fundamental rule, regulation or order, the Commissioner, shall, upon written application for hearing, cause the same to be held within five (5) days thereafter, at which the person complaining shall have opportunity to show cause, if any, why such fundamental rule, regulation or order complained of should be set aside, altered, amended or repealed.

"Sec. 8. The Commissioner shall appoint a Chief Inspector of boilers who shall be the Administrator of the boiler program. The Chief Inspector shall be a resident of Texas and a citizen of the U.S.A. The appointee shall have at least five (5) years experience in the construction, installation, inspection, operation, maintenance, or repair of boilers and shall have passed a written examination demonstrating the necessary ability to judge the safety of boilers for use. The Chief Inspector shall not have a commercial interest in the manufacture, ownership, insurance, or agency of boilers or their appurtenances. The Commissioner shall appoint Deputy Inspectors, as needed, with qualifications similar to those of the Chief Inspector, and such clerical assistants as may be necessary to carry out the provisions of this Act.

"Sec. 9. The salaries and expenses of persons employed or appointed pursuant to the terms of this Act shall be established by the Legislature.

"Sec. 10. The Commissioner may cause the inspection provided for in this Act to be made either by the Chief Inspector, a Deputy Inspector, or



an Authorized Inspector. However, Authorized Inspectors shall be continuously employed by an insurance company and shall first obtain from the Commissioner a Texas commission as an inspector of boilers. The Commissioner is vested with full power and authority to determine the qualifications (by written examination) of any applicant seeking a commission as inspector. The Commissioner may accept, after proper investigation, the commission issued to an inspector by any other jurisdictional authority having a written examination equal to that of the State of Texas. The Commissioner may rescind for good cause, any Texas commission issued to any person. The Commissioner may revoke any Certificate of Operation issued for any boiler within this State upon good cause being shown therefor and after notice and opportunity for hearing thereon.

"Sec. 11. The Commissioner shall fix and collect fees as provided by this Section, for the inspection of boilers. The fees shall be as follows:

"(1) For all boilers other than heating boilers:

"(A) Boilers with a heating surface of fifty (50) square feet (4.65 square meter) or less: .....\$15

"(B) Boilers with a heating surface greater than fifty (50) square feet (4.65 square meter) but not greater than one hundred (100) square feet (9.29 square meter): .....\$25

"(C) Boiler with a heating surface greater than one hundred (100) square feet (9.29 square meter) but not greater than five hundred (500) square feet (46.45 square meter): .....\$30

"(D) Boilers with a heating surface greater than five hundred (500) square feet (46.45 square meter) but not greater than one thousand five hundred (1,500) square feet (139.35 square meter): .....\$35

"(E) Boilers with a heating surface greater than one thousand five hundred (1,500) square feet (139.35 square meter): .....\$40

"(2) For heating boilers:

"(A) Boilers without a manhole: .....\$15

"(B) Boilers with a manhole: .....\$25

"Such fees must be paid by the owner or user before the issuance of a Certificate of Operation for the boiler inspected. Fees collected by the Commissioner under the provisions of this Section of the Act shall be paid into the State Treasury to the credit of the General Revenue Fund.

"Sec. 11a. The fee for a special inspection is One Hundred Twenty-five Dollars (\$125) for four (4) hours or less and One Hundred Seventy-five Dollars (\$175) for a full day, plus travel and per diem based upon the current Appropriations Act, such travel and per diem collected under the provisions of this Section of the Act shall be reappropriated to the credit of the Boiler Inspection Division.

"Sec. 12. Any person, firm, corporation, or agent thereof, owning or having the custody, management, use or operation of any boiler in this State, who shall violate any provision of this Act, or who violates any rule, regulation or order promulgated by authority hereof by the Commissioner or any regularly employed inspector authorized to enforce any provision or any rule, regulation or order authorized herein, or any person, firm, corporation, or agent thereof coming within any provision of this Act, or any rule, regulation or order authorized herein, who shall fail or refuse to comply therewith, shall be deemed guilty of a misdemeanor and upon conviction therefor shall be subject to a fine of not less than Fifty Dollars (\$50) nor more than Two Hundred Dollars (\$200), or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

"Sec. 13. Any owner, manager, superintendent or other person in charge or in control of any factory, mill, workshop, mine, store, business house, public or private work, or the lessee or operator of same, or the owner or lessee of any place where a boiler subject to inspection hereunder is located, who shall refuse to allow any official or employee of the Department of Labor and Standards to enter the same and remain thereon or therein for such time as reasonably necessary, or who shall hinder any such official or employee in any way, or who shall in any way prevent or deter said official or employee from carrying out the provisions of this Act, shall be deemed guilty of a misdemeanor and upon conviction shall be fined not to exceed One Hundred Dollars (\$100) or by imprisonment in the county jail not to exceed sixty (60) days, or by both such fine and imprisonment.

"Sec. 14. Whenever there shall have been adopted, amended or repealed as provided for under this Act, any rule, regulation or order, no criminal action shall be maintained against any person involving the violation of any provision of such rule, regulation or order, until the Commissioner shall have given notice of such rule, regulation or order.

"Sec. 15. An affidavit under the Seal of the Commissioner executed by the said Commissioner or the Chief Inspector or any Deputy Inspector, setting forth the terms of any order of the Commissioner and that it has been adopted, promulgated and published, and was in effect at any date during any period specified in such affidavit, shall be admitted in evidence in any action, civil or criminal, involving such order and the publication thereof without further proof of such promulgation, adoption or publication and without further proof of its contents.

"Sec. 16. Should any section, subsection, sentence, clause, phrase, provision or exemption of this Act be declared unconstitutional or invalid for any reason such invalidity shall not affect the remaining portions or provisions hereof."

Sec. 2. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended, and that this Act take effect and be in force from and after its passage, and it is so enacted.

Passed by the House on March 8, 1977: Yeas 136, Nays 0, 2 present, not voting; passed by the Senate on April 6, 1977: Yeas 31, Nays 0.

Approved April 25, 1977.

Effective April 25, 1977.